

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/591,897	Applicant(s) LANG, TOBIAS	
	Examiner Jeffrey R. West	Art Unit 2857	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 07 August 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See continuation sheet.

/Jeffrey R. West/
Primary Examiner, Art Unit 2857

3 - Appellant indicates that a "Final Office Action finally rejection claims 1, 2 and 4-8 was mailed on January 9, 2008" while claims 1-9 were pending and rejected in the Final Office Action mailed January 09, 2008. Appellant indicates that a "Request for Reconsideration was submitted on April 9, 2008, in which only further arguments as to the patentability of claims 1, 2 and 4-8 were presented" while the After Final Response filed April 09, 2008 proposed amending claims 1, 4, and 7 while cancelling claims 3 and 9. The Advisory Action mailed April 29, 2008, indicated that such amendments would be entered for the purpose of appeal.

5 - Appellant presents the grounds of rejection to be reviewed on appeal as whether "claims 1, 2 and 4-8 are unpatentable under 35 U.S.C. [section] 103(a) over Applicant's admitted prior art (AAPA) in view of Japanese Patent Application Publication No. 2003-050145 to Eshita, et al. ("Eshita")" however, due to the After Final amendment filed April 09, 2008, claims 1, 2 and 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art in view of Eshita et al. and further in view of U.S. Patent No. 4,933,915 to Bolstrom.

6 - Appellant presents a heading for the ground of rejection as "Claims 1, 2 and 4-8 are patentable over AAPA in view of Eshita" however, due to the After Final amendment filed April 09, 2008, claims 1, 2 and 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art in view of Eshita et al. and further in view of U.S. Patent No. 4,933,915 to Bolstrom.

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